

1 BILL NO. S-84-09-30

2 SPECIAL ORDINANCE NO. S- 119-84

3 ORDINANCE AUTHORIZING THE CITY OF
4 FORT WAYNE TO ISSUE ITS "CITY OF FORT WAYNE
5 ECONOMIC DEVELOPMENT FIRST MORTGAGE
6 REVENUE BONDS, SERIES 1984
7 (E. DWIGHT PINKERTON PROJECT)" AND APPROVING
8 OTHER ACTIONS IN RESPECT THERETO

9 WHEREAS, the Fort Wayne Economic Development Commission has
10 rendered its Project Report for the E. Dwight Pinkerton Project
11 regarding the financing of proposed economic development
12 facilities under construction or to be constructed in the City
13 of Fort Wayne, Indiana, and the Fort Wayne Planning Commission
14 has commented favorably thereon; and

15 WHEREAS, the Fort Wayne Economic Development Commission
16 conducted a public hearing on September 20, 1984, and also
17 adopted a resolution on September 20, 1984, which Resolution
18 has been transmitted hereto, finding that the financing of
19 certain economic development facilities of E. Dwight Pinkerton
20 for lease to American Tool & Engineering Co., Inc. complies with
21 the purposes and provisions of I.C. 36-7-12 and that such
22 financing will be of benefit to the health and welfare of the
23 City of Fort Wayne and its citizens; and

24 WHEREAS, the Fort Wayne Economic Development Commission
25 has heretofore approved and recommended the adoption of this
26 form of Ordinance by this Common Council, has considered the
27 issue of adverse competitive impact and has approved the forms
28 of and has transmitted for approval by the Common Council the
29 Loan Agreement, Note, Mortgage and Indenture of Trust, Guaranty
30 Agreement, Lease, Conditional Assignment of Lease and Rentals
31 and Lessee's Consent and Agreement to Lease Assignment; now
32 therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
WAYNE, INDIANA THAT:

1 Section 1. It is hereby found that the financing of the
2 economic development facilities referred to in the Loan Agreement
3 and Mortgage and Indenture of Trust approved by the Fort Wayne
4 Economic Development Commission and presented to this Common
5 Council, the issuance and sale of revenue bonds in the aggregate
6 principal amount of \$535,000, the loan of the proceeds of the
7 revenue bonds to E. Dwight Pinkerton for the acquisition and
8 construction of such facilities for lease to American Tool &
9 Engineering Co., Inc., under the Lease, the payment of the
10 revenue bonds by the note payments of E. Dwight Pinkerton under
11 the Loan Agreement and Note, the guaranty of the payment of
12 principal and interest on the bonds by American Tool & Engineering
13 Co., Inc. under the Guaranty Agreement, and the securing of said
14 bonds by the mortgaging of such facilities to the Trustee under
15 the Mortgage and Indenture of Trust complies with the purposes
16 and provisions of I.C. 36-7-12 and will be of benefit to the health
17 and welfare of the City of Fort Wayne and its citizens.

18 Section 2. The facilities will consist of the purchase
19 of a 30,000 square foot building and approximately 20 acres of
20 land located at 2817 Goshen Road, Fort Wayne, Indiana.

21 Section 3. It is hereby found that the above-described
22 Project of E. Dwight Pinkerton for lease to American Tool &
23 Engineering Co., Inc. will not have an adverse competitive
24 impact on other facilities of the same kind already operating
25 in the same market area.

26 Section 4. The substantially final forms of the Loan
27 Agreement, Note and Mortgage and Indenture of Trust approved
28 by the Fort Wayne Economic Development Commission are hereby
29 approved (herein collectively referred to as the "Financing
30 Agreement" referred to in I.C. 36-7-12), and the substantially
31 final forms of Lease, Guaranty Agreement, Conditional Assignment

1 of Lease and Rentals and Lessee's Consents and Agreement to Lease
2 Assignment approved by the Fort Wayne Economic Development
3 Commission are hereby approved, and all such documents shall be
4 incorporated herein by reference and shall be inserted in the
5 minutes of the Common Council and kept on file by the Clerk.
6 In accordance with the provisions of I.C. 36-1-5-4, two (2)
7 copies of all such documents are on file in the office of the
8 Clerk for public inspection.

9 Section 5. The City of Fort Wayne shall issue its Economic
10 Development First Mortgage Revenue Bonds, Series 1984 (E. Dwight
11 Pinkerton Project), in the total principal amount of approximately
12 Five Hundred Thirty-five Thousand Dollars (\$535,000) and with
13 the final maturity fifteen years from date of issuance, for the
14 purpose of procuring funds to lend to E. Dwight Pinkerton to pay
15 the costs of acquisition and construction of the economic development
16 facilities as more particularly set out in the Loan Agreement and
17 Mortgage and Indenture of Trust incorporated herein by reference,
18 which bonds will be payable as to principal, premium, if any,
19 and interest from the note payments made by E. Dwight Pinkerton
20 under the Loan Agreement and Note or as otherwise provided in
21 the above described Mortgage and Indenture of Trust. The bonds
22 shall be issued in fully registered form in the denominations of
23 \$5,000 or integral multiples thereof and shall be redeemed as
24 provided in Article III of the Mortgage and Indenture of Trust.
25 Payments of principal and interest are payable in lawful money
26 of the United States of America at the principal office of the
27 Trustee or its successor in trust or by check or draft mailed or
28 delivered to the registered owner as provided in the Mortgage
29 and Indenture of Trust. The bonds shall never constitute a
30 general obligation of, an indebtedness of, or a charge against
31 the general credit of the City of Fort Wayne or the State of
32 Indiana nor are the bonds payable in any manner from revenues

1 raised by taxation.

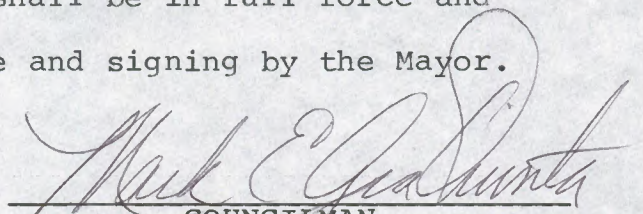
2 Section 6. The Mayor and Clerk are authorized and directed
3 to sell such bonds to the purchasers thereof at the rate per
4 annum equal to nine and one-fourth percent (9-1/4%) from the
5 date of delivery thereof to and including August 31, 1984, and
6 thereafter at the rate per annum equal to seventy percent (70%)
7 of the prime commercial lending rate announced by Lincoln National
8 Bank & Trust Company; provided, however, that in the event
9 interest on the bonds becomes taxable, the interest rate shall be
10 equal to the prime commercial lending rate announced by Lincoln
11 National Bank & Trust Company, Fort Wayne, Indiana, from time to
12 time. The bonds shall be sold at a price not less than 100% of
13 the principal amount thereof.

14 Section 7. The Mayor and Clerk are authorized and directed
15 to execute, attest, affix or imprint by any means the City seal
16 to the documents constituting the Financing Agreement approved
17 herein on behalf of the City and any other document which may be
18 necessary or desirable to consummate the transaction, including
19 the bonds authorized herein. The Mayor and Clerk are hereby
20 expressly authorized to approve any modifications or additions
21 to the documents constituting the Financing Agreement which take
22 place after the date of this Ordinance with the review and advice
23 of the City Attorney; it being the express understanding of this
24 Common Council that said Financing Agreement is in substantially
25 final form as of the date of this Ordinance. The approval of
26 said modifications or additions shall be conclusively evidenced
27 by the execution and attestation thereof and the affixing of the
28 seal thereto or the imprinting of the seal thereon; provided,
29 however, that no such modification or addition shall change the
30 maximum principal amount of, interest rate on or term of the
31 bonds as approved by the Common Council by this Ordinance without
32 further consideration by the Common Council. The signatures of

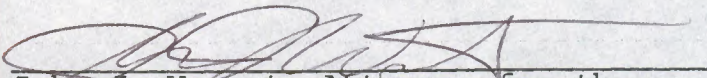
1 the Mayor and Clerk on the bonds may be either manual or
2 facsimile signatures. The Clerk is authorized to arrange for
3 delivery of such bonds to the Trustee named in the Mortgage
4 and Indenture of Trust, payment for the bonds will be made to
5 the Trustee named in the Mortgage and Indenture of Trust and
6 after such payment the bonds will be delivered by the Trustee
7 to the purchasers thereof. The Mayor and Clerk shall execute
8 and the Clerk shall deliver the bonds to the Trustee within
9 ninety days of the adoption of this Ordinance. The bonds
10 shall be dated as of August 15, 1984, but shall bear interest
11 only from the date of delivery.

12 Section 8. The provisions of this Ordinance and the
13 Mortgage and Indenture of Trust securing the bonds shall
14 constitute a contract binding between the City of Fort Wayne and
15 the holder of the Economic Development First Mortgage Revenue
16 Bonds, Series 1984 (E. Dwight Pinkerton Project), and after
17 the issuance of said bonds, this Ordinance shall not be repealed
18 or amended in any respect which would adversely affect the rights
19 of such holders so long as any of said bonds or the interest
20 thereon remains unpaid.

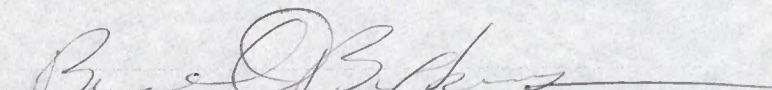
21 Section 9. This Ordinance shall be in full force and
22 effect from and after its passage and signing by the Mayor.

23 
24 COUNCILMAN

25 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION
26 AND APPROVED AS TO FORM.

27 
28 John J. Wernet, Attorney for the
29 Economic Development Commission
Dated this 24th day of September, 1984

30 APPROVED AS TO FORM AND LEGALITY.

31 
32 Bruce O. Boxberger, City Attorney
Dated this 24th day of September, 1984

Read the first time in full and on motion by Gia Quinto, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.

DATE: 9-25-84

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Gia Quinto, seconded by Stier, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 10-9-84

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~) (~~SPECIAL~~) (~~ZONING MAP~~) ORDINANCE (~~RESOLUTION~~) NO. A-119-84 on the 9th day of October, 1984,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Ray A. Ebert
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th day of October, 1984, at the hour of 11:00 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 10th day of October, 1984, at the hour of 2⁰⁰ o'clock P. M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

BILL NO. S-84-09-30

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN
ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS "CITY OF
FORT WAYNE ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BONDS, SERIES
1984 (E. DWIGHT PINKERTON PROJECT)" AND APPROVING OTHER ACTIONS IN
RESPECT THERETO

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

MARK E. GIAQUINTA, CHAIRMAN

JAMES S. STIER, VICE CHAIRMAN

JANET G. BRADBURY

THOMAS C. HENRY

DONALD J. SCHMIDT

CONCURRED IN

10-9-84
SANDRA E. KENNEDY, CITY CLERK